#### MINUTES

# MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

# COMMITTEE ON FINANCE & CLAIMS

Call to Order: By SENATOR GARY AKLESTAD, Chairman, on Tuesday, March 28, 1995, at 8:00 a.m., Room 108.

# ROLL CALL

#### Members Present:

Sen. Gary C. Aklestad, Chairman (R)

Sen. Thomas F. Keating, Vice Chairman (R)

Sen. Thomas A. "Tom" Beck (R)

Sen. James H. "Jim" Burnett (R)

Sen. Loren Jenkins (R)

Sen. Ethel M. Harding (R)

Sen. Arnie A. Mohl (R)

Sen. Charles "Chuck" Swysgood (R)

Sen. Daryl Toews (R)

Sen. Larry J. Tveit (R)

Sen. B.F. "Chris" Christiaens (D)

Sen. Eve Franklin (D)

Sen. Judy H. Jacobson (D)

Sen. Greq Jergeson (D)

Sen. John "J.D." Lynch (D)

Sen. Mignon Waterman (D)

Members Excused: None

Members Absent: None

Staff Present: Taryn Purdy, Office of Legislative Fiscal Analyst

Lynn Staley, Committee Secretary

Please Note: These are summary minutes. Testimony and

discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 189, HB 3, HB 18, HB 603, HB 512, HB

576

Executive Action: HB 512, HB 603, HB 18, HB 189

# HEARING ON HOUSE BILL 189

#### Opening Statement by Sponsor:

REPRESENTATIVE ERNEST BERGSAGEL, House District 95, Malta, sponsor, said HB 189, the budget stabilization bill, would help

avoid special sessions by providing a fund that is set aside for fires, etc. He explained that a two-thirds vote would be required to take the money out of the savings account.

#### <u>Proponents' Testimony</u>:

None.

# Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

When questioned by SENATOR SWYSGOOD where the money would come from to start the program, REPRESENTATIVE BERGSAGEL said it would be the ending fund balance. If there are excess funds, they would be put into the account but would preclude any tax relief offered. HB 189 is designed to avoid conflicting with the Governor.

In questioning by **SENATOR SWYSGOOD** at what point the ending fund balance dictates that the surplus goes in, **REPRESENTATIVE BERGSAGEL** said it is based on the LFA pre-session appropriation report.

**SENATOR SWYSGOOD** asked if a \$25 million ending fund balance was required but there was actually \$35 million, would the extra \$10 million go to this account.

**REPRESENTATIVE BERGSAGEL** replied yes, up to two and one-half percent of the total general fund for the biennium.

**SENATOR AKLESTAD** asked if this account would be above and beyond what the legislature would leave for an ending fund balance each and every session.

REPRESENTATIVE BERGSAGEL said it is an attempt to set up an emergency savings account for the state of Montana. He said the legislature could spend it with a two-thirds vote, and the Governor could spend it if there was a financial or fiscal emergency as defined in Section 1.

In answer to **SENATOR AKLESTAD'S** question as to whether the only money put in the stabilization account would be from the ending fund balance, **REPRESENTATIVE BERGSAGEL** said yes, when there is a revenue excess and it would not require an appropriation.

**SENATOR MOHL** asked what happens to the money at the end of the biennium if there was \$20 million in there and a new budget was started.

REPRESENTATIVE BERGSAGEL said the cap is 2 1/2 percent of general fund; and if the general fund goes, this account would also. He

said if the cap was \$25 million and there was a \$30 million surplus, the legislature would get \$5 million to spend and \$25 million would be kept in the account.

SENATOR JENKINS questioned line 29 of page 3 and asked if it was tied with subsection 2 of section 3 which says if you get over 2 1/2 percent, the excess is put into the school equalization account.

REPRESENTATIVE BERGSAGEL voiced concern that he misrepresented the bill and apologized. He said if there is an excess it would automatically go into property tax relief and the 40 mills is automatically reduced. If the general fund cap is \$25 million and there is \$5 million left over, that would be distributed statewide to reduce the 40 mills and does not go into the general fund.

When questioned by **SENATOR KEATING** if the supplementals were drawn down on the ending fund balance, **REPRESENTATIVE BERGSAGEL** said it would be his assumption that the supplementals would be dealt with before getting the legislative report.

# Closing by Sponsor:

REPRESENTATIVE BERGSAGEL said he was sorry that he had accidentally misrepresented that section of law, and there is automatic property tax relief if there are excess funds. He said 44 other states have stabilization accounts.

#### HEARING ON HOUSE BILL 3

#### Opening Statement by Sponsor:

REPRESENTATIVE TOM ZOOK, House District 3, Miles City, sponsor, explained that HB 3 is a \$14.5 million supplemental bill.

#### Proponents' Testimony:

Bob Kuchenbrod, Administrator, Central Management, Department of State Lands, presented and explained a handout to the committee. EXHIBIT 1 He said \$10,497,849 is what is needed through HB 3. The total cost to the general fund is \$15,929,061 and the federal government will pay approximately 32 percent of the total \$23 million. In discussions with the budget office it was decided that since there is approximately \$1 million in emergency funds through the Governor's Office, money would come from that fund in event there are spring fires to fight.

# Opponents' Testimony:

None.

# Informational Testimony:

Taryn Purdy, LFA, explained the summary for all specific supplementals being requested in this budget and said the appropriations for approximately \$10,000 for the Criminal Justice Information Network and implementation of a dress policy at Swan River Boot Camp were taken out by the House Appropriations Committee. EXHIBIT 2

# Questions From Committee Members and Responses:

SENATOR CHRISTIAENS asked what it would cost to fight a typical fire such as the recent fire in Wolf Creek.

Mr. Kuchenbrod said the approximate cost is \$3,000 to \$4,000.

**SENATOR SWYSGOOD**, questioning the DSL Aircraft Repairs in **EXHIBIT** 1, asked if it is not budgeted through another appropriation process for repair and maintenance of aircraft.

Mr. Kuchenbrod said they work off the proprietary account. Flying for the fires is the cost to the state to the forestry division for sending the money when aircraft are used and is put into the proprietary account. It is a cost to the fire estimate plus the amount of money that goes into the proprietary account to support the air operations.

In answer to SENATOR SWYSGOOD'S question regarding the Department of Justice, Mr. Kuchenbrod said the Department of Justice estimate comes from two areas; (1) the fire marshall's overtime is charged to the fires; his regular time is not because he is paid by the general fund, and (2) the Highway Patrol for securing the roads, stopping traffic, and making sure the men get to the fires quickly.

SENATOR SWYSGOOD questioned if that is not part of their regular duties.

Mr. Kuchenbrod maintained that there is an agreement to reimburse them for anything that entails anything outside of the overtime, extra duty, etc.

When asked by SENATOR SWYSGOOD about the State Prison, Don Artley, Department of State Lands, said there are fire crews provided by the State Prison. SENATOR SWYSGOOD further questioned if they were paid at their regular prison rate, and Mr. Artley said they are paid normal fire fighter rates. That money is put into a savings account for the prisoners until they are released.

SENATOR SWYSGOOD asked about Fish, Wildlife and Parks, and Mr. Kuchenbrod said they are assistants to Department of State Lands in fighting the fires wherever it is deemed necessary.

In answer to SENATOR SWYSGOOD'S question of pay, Mr. Kuchenbrod said it would be overtime hours.

SENATOR JACOBSON asked if the five FTE's for the Swan River Boot Camp were contained in HB 2, and Ms. Purdy said she did not think they were.

SENATOR JACOBSON said although this bill hires five people to increase the security of the Swan River Correctional Training Center to replace the trustees they send back to jail, funding for those five FTE's is not included in HB 2, so it seems pointless to hire them for a few months and then lay them off.

**SENATOR JENKINS** commented that Swan River Boot Camp may not be in existence in a few months as there is talk about moving the Boot Camp to the prison.

**SENATOR JACOBSON** contended that there is no money in the budget to do that, and she objected to spending approximately \$80,000 to hire people that will be fired in a few months.

SENATOR TOEWS, questioned why the OPI supplemental was so high.

Kathy Fabiano, Office of Public Instruction (OPI), said the supplemental request is \$1.7 million, but they have written to the budget office saying they can lower it now by \$100,000, based on the first half claims for this fiscal year. The \$1.6 million supplemental is made up of \$800,000 that was transferred from FY 95 to FY 94 to make that payment. They estimated \$800,000, but ended up only using \$570,000 so the difference has already reverted to the general fund. She understood the budget office would request an amendment to the bill for the \$100,000.

**SENATOR CHRISTIAENS** asked why 31 FTE were needed between now and July 1 to convert the Montana State Hospital into an 80 bed prison facility.

REPRESENTATIVE ZOOK said the Appropriations Committee put the \$300,000 in because they are anxious to gain the use of the 80 beds as soon as possible. The other approximately \$700,000 is in HB 2 to continue with that for the first fiscal year.

When asked by SENATOR CHRISTIAENS how they could use 31 FTE when it hasn't been converted yet, REPRESENTATIVE ZOOK said they are going to use some prison labor to do this, and they also need some security people.

Bill Furois, Department of Corrections and Human Services, said putting the FTE's and the money in Fiscal 95 would allow them to recruit, get classes going, training, etc., in 1995 so they can actually open the doors the first day of July, FY 96. He explained that it will buy cots, clothing, bedding and hire and train staff.

SENATOR CHRISTIAENS asked when the 31 FTE's would be working, and Mr. Furois said a class would start sometime in April which is when they would go on salary.

**SENATOR JENKINS** asked **Mr. Furois** to explain the Swan River Boot Camp.

Mr. Furois said in HB 3 there are five FTE's that will cover both an expansion and a security problem at the Swan River Boot Camp. Three of the FTE's deal with security issues and two FTE's with expansion. If funding is provided, they want to hire people now and train them and hopefully keep them, but HB 2 is not currently funded with ongoing funding. There is bonding authority of approximately \$2 million construction authority from the prior biennium left to the Corrections Department. With that, they would be able to build a new facility, remodel the current place on the prison property and move the camp in late FY 97 to the State Prison property in Deer Lodge.

SENATOR JENKINS questioned Dave Lewis, Office of Budget and Program Planning (OBPP) on the SRS area in EXHIBIT 2. Mr. Lewis said that REPRESENTATIVE COBB wanted to take money out of AFDC in FY 95 and move it into the Child Support and Enforcement and Child Care Benefits area. Mr. Lewis added that was over the objections of the administration as they would like to use the AFDC money to possibly transfer to make sure there is not a problem in Family Services.

**SENATOR KEATING** asked **REPRESENTATIVE ZOOK** if the amount requested had been worked into the ending fund balance for this biennium prior to coming here.

**REPRESENTATIVE ZOOK** said the sheet showed approximately \$3 million on the ending fund balance.

In questioning from **SENATOR SWYSGOOD** if the \$17.9 million ending fund balance includes all of this supplemental, **REPRESENTATIVE ZOOK** said it includes approximately \$3 million over the estimate.

# Closing by Sponsor:

REPRESENTATIVE ZOOK closed on HB 3.

#### HEARING ON HOUSE BILL 18

# Opening Statement by Sponsor:

REPRESENTATIVE TOM ZOOK, House District 3, Miles City, sponsor, said HB 18 increases the statutory appropriation from \$3 million to \$10 million for emergency or disaster due to fire, adding that it doesn't count against the ending fund balance.

# Proponents' Testimony:

Dave Lewis, OBPP, said they spent \$16 million on forest fires last summer, which was unanticipated, and they had to

aggressively manage the cash during the summer to avoid a special session. HB 18 would allow more room to manage the expenses of an unanticipated forest fire or other natural disaster and avoid calling a special session.

# Opponents' Testimony:

None.

# Questions From Committee Members and Responses:

In answer to SENATOR JENKINS' question concerning the \$10 million, Mr. Lewis said the \$10 million was specified for fires.

# Closing by Sponsor:

REPRESENTATIVE ZOOK closed on HB 18.

(HEARING RECESSED - 9:00 A.M.)

(HEARING RECONVENED - 9:30 A.M.)

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

#### HEARING ON HOUSE BILL 603

# Opening Statement by Sponsor:

REPRESENTATIVE TOM ZOOK, House District 3, Miles City, sponsor, explained that HB 603 authorizes the university system to spend private funds they have or hope to receive, as well as exempting them from the bidding process in some cases. It covers the athletic field at MSU, the Prescott House at the University of Montana and gives Western Montana College some authority to renovate Vigilante stadium. He alleged that there are terms and conditions the university systems have to go through to get their projects approved. EXHIBIT 3

# Proponents' Testimony:

Jeff Baker, Commissioner of Higher Education, testifying in support of HB 603, said the Regents considered all three projects and after discussion decided to go forward with the projects. From the standpoint of the university system, these are not always the types of projects they would necessarily like to see donors contributing to, but the projects are in response to donors who have an interest and want to move these various items forward in support of higher education. He affirmed that each of the three projects is being done without state money.

Rick Gustine, officer and member of the Executive Board of MSU Athletic Scholarship Association, urging support of HB 603, said they started discussing the stadium project at MSU last fall and it has generated a lot of support for the university.

Brad Daws, Businessman and past president of the MSU Athletic Scholarship Association, testified in support of HB 603.

Steve Wheeler, past president of MSU Athletic Scholarship Association, rose in support of HB 603.

# Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

When questioned by **SENATOR BECK** about the private funds for the Pharmacy Building at the University of Montana, **REPRESENTATIVE ZOOK** stated that HB 603 does not cover that issue.

**SENATOR BECK** questioned if there was other spending authority so the Pharmacy Building could expend what they have raised in private funds.

REPRESENTATIVE ZOOK replied he did not think there was other spending authority. It didn't pass in the Long Range Building or the House Appropriations Committee.

**SENATOR JENKINS** questioned the auxiliary funds for the Prescott House.

**REPRESENTATIVE ZOOK** said that was funds left over from some arbitrage dealings on bonds, and they are given the authority to use those in HB 603.

In questioning from SENATOR JENKINS as to how much money has been raised for the complex at Bozeman, Rob Spicer, Vice President, MSU, said they have been engaged in a statewide public relations effort in discussing the project; however, they are holding back on starting the actual fund raising process until they get authorization from the legislature.

**SENATOR BECK** questioned the wording in section 4 which states that the University is prohibited from substantially altering or changing the configuration of campus drive.

Mr. Baker explained that the house sits on the east side of the campus and is more or less in the middle of the loop of the road, a congested traffic area where several accidents have occurred. When the original proposal was suggested on restoring the Prescott House, the idea was to straighten the road to the east of the house. That became a controversial issue and an amendment was proposed, and the university has committed that they will not

substantially alter the road. It is hoped this will diffuse the controversy and preserve the historical aspect of the house and the grounds. He explained that the idea is to take out some of the rough edges on the road so it is not such a 90 degree turn each time which would relieve some of the traffic congestion.

In questioning from SENATOR AKLESTAD as to where the dollars would go if they raised more than the specified amount, Mr. Baker said they would not exceed any authority they would have in the project. They would not take money from donors and allocate that money to projects or purposes that the donors had not intended. Any overage would only be used for projects related to issues of concern to those donors for which they would be giving the funds. He commented that he did not believe they would go over the allocated amount on any of the three projects in question.

**SENATOR MOHL** asked if they anticipated needing additional personnel for the projects and if they would have to come back for additional funds.

Mr. Baker remarked that issue was also raised with the Regents, and in terms of the services provided they do not anticipate needing more funds to operate and maintain the three facilities.

**SENATOR MOHL** said the increase in size would bring more money into athletics, and he questioned what would happen to the additional funding brought in.

Mr. Baker said conceptually it would mean a facility that would be more conducive, both in the Western situation and in Bozeman, to supporting athletic events that take place on those campuses. He commented that Western is a community project not only in the construction part, but also in utilization, as Vigilante stadium is used by the high school. In Bozeman, the idea is to have a greater multi-use project that would not only accommodate the kinds of activities that are ongoing, but also lend itself to additional types of activities in the future.

# Closing by Sponsor:

REPRESENTATIVE ZOOK said it is important that people can donate money to the units of their choice, and the university system should be allowed to expend those funds. He affirmed that it is also important that the projects have the Regents' approval.

#### HEARING ON HOUSE BILL 512

# Opening Statement by Sponsor:

REPRESENTATIVE ROGER DEBRUYCKER, House District 89, sponsor, said HB 512 takes fifty percent of the acquisition money for stream sites and puts it into weed control and maintenance. He explained that the bill sunsets in 1999.

#### <u>Proponents'</u> Testimony:

None.

# Opponents' Testimony:

None.

# Questions From Committee Members and Responses:

In questioning from **SENATOR TOEWS** regarding other monies being spent for weed control, **REPRESENTATIVE DEBRUYCKER** said there are weed control districts through other departments. Fish, Wildlife and Parks spends money on weed control on other land they have, but this would be for maintenance of noxious weeds at fishing access sites.

SENATOR FRANKLIN questioned if there was a bill in the House that would coordinate weed control efforts.

REPRESENTATIVE DEBRUYCKER said that bill would coordinate the Departments of State Lands, Fish, Wildlife and Parks, and the Highway Department. In meetings with the Department of Fish, Wildlife and Parks, they said to take 50 percent of their acquisition money to use for maintenance and weed control on the fishing access sites and stream beds.

SENATOR SWYSGOOD said the bill SENATOR FRANKLIN was referring to was heard and passed in the Agriculture Committee.

When questioned by SENATOR AKLESTAD if HB 512 is tied to the bill heard in the Agriculture Committee, SENATOR SWYSGOOD said it requires the Departments of Fish, Wildlife and Parks, State Lands and anybody that currently has weed money to come up with a coordinated plan for the eradication of weeds.

#### Closing by Sponsor:

REPRESENTATIVE DEBRUYCKER said State Lands, Highway Department and Fish, Wildlife and Parks have a budget for weed control and they are trying to coordinate them.

#### HEARING ON HOUSE BILL 576

# Opening Statement by Sponsor:

REPRESENTATIVE ED GRADY, House District 55, sponsor, said HB 576 would remove \$208 million of double spending authority from HB 2. This money is currently shown as expenditures in at least two agencies and should be counted as a true expenditure of state government only once. It will eliminate listing \$65 million of pass-through money from local governments as a state expenditure. By truthfully reporting state spending, there will be a reduction

of \$340 million in total reported state spending. HB 576 requires the Budget office and the Legislative Auditor to continue reviewing state operations for the purpose of providing information to the legislature on the privatization of at least two state operations every session.

# Proponents' Testimony:

Dave Lewis, OBPP, said the issue is to revise the accounting processes and procedures so money is only counted once. Mr. Lewis explained various section of the bill. In Section 1, the OBPP would do a continuous review of the possibilities of privatization of the operations and look at the costs and fees to see if they were competitive. They are required each biennium to recommend at least two of the operations for a privatization review from the legislative audit staff. Referring to Section 2, he said the gambling tax is about \$30 million that comes to the state, and \$20 million goes back to the city or county government where machines are located. That \$20 million has been included as a state expenditure, and HB 576 would change that so it wasn't counted as a state expenditure. Section 3, budget amendment requirements that were included in this bill were to address concerns about the subcommittee removing some of the empty spending authority. Language was added to state that if there were specific state laws that authorized an activity, even though that spending authority may have been in the legislative budget request of the Governor and had not been approved by the legislature, as long as there were state laws requiring the activity, they could review them as far as budget amendments were concerned. Section 4 eliminates the requirement in HB 2 appropriations for the internal service funds and enterprise type It addresses the double spending, the problem with budget amendments and the issues counted as state spending, money that was collected and returned to local governments without an adjustment.

# Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

In answer to SENATOR BECK'S question, Mr. Lewis said they added up the enterprise and internal service funds in HB 2 and as reflected on the fiscal note, the money that has passed through the local government came to the \$340 million estimate. He said the billion dollars talked about further fund reclassifications that the legislative auditor had recommended. The accounting division is looking at doing other things administratively, but the \$340 million is the amount the statutory changes would reflect.

SENATOR AKLESTAD questioned if what the subcommittee did in certain areas is reflected in the \$340 million, and Mr. Lewis said that was correct.

Taryn Purdy said the highway money is all state special revenue, not proprietary and would not be counted in the \$340 million. She said ISD, Computer Services, Lottery money, all of the Secretary of State's funding, certain publications and graphics, and General Services Division are all proprietary funds, so various agencies would be affected by this bill. In order to implement HB 576, there would be a large amendment in HB 2 Conference Committee removing these funds from HB 2.

**SENATOR BECK** questioned if federal funds were addressed, to which **Ms. Purdy** said the federal funds would remain intact in the agencies that pay the bills.

**SENATOR SWYSGOOD** asked if the pass-through funds, such as the lottery, would include the refund to local government for the personal property tax reduction that is paid them.

Connie Griffith, Department of Administration, said the taxes referred to are taxes which come in that the state collects and then distributes a portion or 100 percent back to the counties directly. She said 50 percent of the gambling license fee tax goes back to the counties, 100 percent of the oil and gas local assistance tax is distributed back to the counties. The only money that will come in has to be money that is tax money and it has to be money that is not specified to be in another account. If it is specified to be distributed back to the general fund, it would not be included in this.

SENATOR SWYSGOOD commented that we currently reimburse local government \$17 million for the reductions made a few sessions ago in personal property tax. That is paid out of general fund monies which are tax dollars, and he questioned whether they would be included under this bill.

Mr. Lewis said that is a statutory general fund appropriation and would not be included. HB 576 would cover those dollars that are collected from a particular tax, and the fiscal note lists some of those.

When asked by **SENATOR BECK** if those are earmarked to local government, **Mr. Lewis** said they were.

**SENATOR AKLESTAD** questioned if SB 83 would apply since those funds are earmarked.

Mr. Lewis said it de-earmarks those taxes, and the taxes that go into the general fund are available for general appropriations and wouldn't be covered by this because anything in the general fund is available to be spent. It would have to be appropriated.

**SENATOR AKLESTAD** questioned if the gambling dollars would go directly to the county and wouldn't be calculated as an expenditure. **REPRESENTATIVE GRADY** said that was correct.

SENATOR SWYSGOOD commented that there is a double accounting process now where money is appropriated to one agency and they in turn send the same money back to another agency to pay for a service and they are both shown as appropriations. He voiced concern if this is reducing the total amount of the figure that state government shows as being a budget.

REPRESENTATIVE GRADY said it did in highways.

Mr. Lewis said this takes the money out of HB 2. It would still be accounted for in the accounting system and reported in the financial statements. It is stating that the legislature appropriates the money once.

# Closing by Sponsor:

REPRESENTATIVE GRADY closed on HB 576.

#### EXECUTIVE ACTION ON HOUSE BILL 512

Motion/Vote: SENATOR JENKINS MOVED HOUSE BILL 512 BE CONCURRED IN. The motion CARRIED unanimously. SENATOR WATERMAN will carry HB 512.

# EXECUTIVE ACTION ON HOUSE BILL 603

<u>Discussion</u>: SENATOR AKLESTAD remarked that on page 3, line 11, there would be a clerical change to show Section 4 as Section 5, so there would not have to be an amendment.

Motion/Vote: SENATOR LYNCH MOVED HOUSE BILL 603 BE CONCURRED IN. Motion CARRIED unanimously. SENATOR SWYSGOOD will carry HB 603.

# EXECUTIVE ACTION ON HOUSE BILL 18

Motion: SENATOR JACOBSON MOVED HOUSE BILL 18 BE CONCURRED IN.

<u>Discussion</u>: SENATOR KEATING commented that it used to be considered spending authority for a contingency account and was a part of the budget balance, but he understood that this would no longer be a part of the budget balance.

SENATOR JACOBSON said there was some discussion when it was raised from \$3 million to \$10 million if it was necessary to account for part or all of it as a part of the ending fund

balance. She maintained that we have never counted the spending authority for supplemental money.

SENATOR KEATING said it was still a contingency fund.

SENATOR JACOBSON said it is a contingency fund but is not accounted for until after it is spent.

<u>Vote</u>: The motion to concur <u>CARRIED</u> unanimously. <u>SENATOR</u> <u>JACOBSON</u> will carry HB 18.

# EXECUTIVE ACTION ON HOUSE BILL 189

<u>Discussion</u>: SENATOR AKLESTAD said HB 189 would establish a stabilization account of 2.5 percent of the total general fund expenditure to be put into this account. When that account gets to that, it would go into property tax relief.

Taryn Purdy said this would be money available for use by the legislature under an emergency situation to cover a revenue shortfall so that a special session would not be necessary. It would take a majority vote to change the law, but it takes a two-thirds vote of the legislature to spend any of the money.

**SENATOR LYNCH** questioned how it would stop a special session if it takes a two-thirds vote to spend it.

Ms. Purdy said the funds are statutorily appropriated to the Governor to use under specific situations.

In questioning from **SENATOR JACOBSON** if the Governor could spend the money but the legislature couldn't, **Ms. Purdy** said that was correct, however, he could only spend it for certain things.

**SENATOR BECK** questioned what a small fund would be, and **SENATOR AKLESTAD** said if it is a billion dollar general fund budget, 2.5 percent would be \$25 million.

Motion/Vote: SENATOR KEATING MOVED HOUSE BILL 189 BE CONCURRED IN. The motion FAILED on a roll call vote.

Motion/Vote: SENATOR LYNCH MOVED HOUSE BILL 189 BE TABLED. The motion CARRIED.

{Tape: 2; Side: A; Approx. Counter: ; Comments: .}

#### EXECUTIVE ACTION ON HOUSE BILL 576

Motion: SENATOR BECK MOVED HOUSE BILL 576 BE CONCURRED IN.

<u>Discussion</u>: Taryn Purdy said it is a question of what level of oversight the legislature wants to have and whether giving notice to the Legislative Finance Committee is sufficient oversight on funds that could have been considered or were considered.

**SENATOR JACOBSON** expressed interest in delaying action on HB 576 until March 29th so she could get more information on the bill.

Withdrawal of motion: SENATOR BECK WITHDREW HIS MOTION.

**SENATOR JACOBSON** said there is a legislative reorganization bill dealing with changing the budget amendment process, and she would like additional time to review both bills to see if there are any conflicts.

Ms. Purdy explained that Section 4 reduces the amount of the appropriation in HB 2 and shows up as an appropriation made by the legislature. As Mr. Lewis said, this is a double accounting issue, but there are some funds that are going to drop out of the budget that are not double accounted, such as lottery money. This would have oversight issues for the legislature. The bill does allow oversight in other ways and requires that those fees and charges be set that ISD makes to agencies. She said the LFA is interested in Subsection 9 because there are programs where some of the funding is proprietary and some is not. There will be see some proprietary funds in the next budget if they are part of another program that has other funding sources.

**SENATOR KEATING** commented that the Secretary of State's office has a fee program which is considered a proprietary account but is not a proprietary account, and he asked if that was affected by HB 576.

Ms. Purdy said the Secretary of State's office would not be in the budget from now on with HB 576. It is completely proprietary funded. HB 576 requires that the Department of Administration must approve any move to change accounting to proprietary funds.

#### ADJOURNMENT

Adjournment: 10:50 a.m.

SENATOR GARY AKLESTAD, Chairman

LYNN STALEY Secretary

# MONTANA SENATE 1995 LEGISLATURE

# FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE 3/28/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK		•	
BURNETT, JIM			
MOHL, ARNIE			
JERGESON, GREG			
FRANKLIN, EVE	✓		
TVEIT, LARRY	/		
JENKINS, LOREN	V		
JACOBSON, JUDY			
LYNCH, J.D.			
HARDING, ETHEL			
TOEWS, DARYL	V		
CHRISTIAENS, B.F. "CHRIS"	~		
WATERMAN, MIGNON			
KEATING, TOM - VICE CHAIRMAN			
BECK, TOM			
AKLESTAD, GARY - CHAIRMAN	V .		
	<u> </u>	<u> </u>	

SEN:1995

wp.rollcall.man

# SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 28, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 512 (third reading copy -- blue), respectfully report that HB 512 be concurred in.

Signed:

Senator Gary Aklestad, Chair

 $\stackrel{\frown}{\sim}$  Amd. Coord.  $\stackrel{\frown}{\sim}$  Sec. of Senate

Wallman Senator Carrying Bill

711421SC.SRf

# SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 28, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 603 (third reading copy -- blue), respectfully report that HB 603 be concurred in.

Signed

Senator Gary Aklestad, Chair

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

711423SC.SRF

# SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 28, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 18 (third reading copy -- blue), respectfully report that HB 18 be concurred in.

Signed: Senator Gary Aklestad, Chair

Amd. Coord.

Sec. of Senate

711432SC.SRF

# MONTANA SENATE 1995 LEGISLATURE FINANCE AND CLAIMS COMMITTEE

ROLL CALL VOTE

/ /	
DATE 3/28/95 BILL NO. 48/89 NUMBER	
MOTION: Senatur Leating moved	
that HB 189 Re Concurred In	
Failed	

NAME	AYE	NO
SWYSGOOD, CHUCK		/
BURNETT, JIM	_ <	
MOHL, ARNIE		~
JERGESON, GREG		/
FRANKLIN, EVE		V
TVEIT, LARRY	-	
JENKINS, LOREN		
JACOBSON, JUDY		V
LYNCH, J.D.		
HARDING, ETHEL		
TOEWS, DARYL	/	
CHRISTIAENS, B.F. "CHRIS"		V
WATERMAN, MIGNON	V	
KEATING, TOM - VICE CHAIRMAN	~	
BECK, TOM		V
AKLESTAD, GARY - CHAIRMAN	$\sqrt{}$	
		· · ·

SEN:1995

SENATE FINANCE AND

EXHIBIT NO ..

BILL NO.\_

Appropriation Transfer (FY94)		\$ 373,874
SBAS Costs		10,614,964
Billed: US Forest Service MT National Guard Bureau of Land Management Fish, Wildlife, Parks MT State Prison Department of Justice DSL Aircraft Repairs	\$10,731,603 144,877 612,022 15,500 39,929 108,203 159,912	11,812,046
US Forest Service (retardant, transportation, and regular army crews) Miscellaneous Vendors	10,000	550,537
Total Costs		\$23,351,421
Less: Emergency Fund HB14 Fire Supplemental Budgeted Salaries	<7,416,000> <5,000,000> < 437,572>	<12,853,572> \$10,497,849
Amount Required in HB3 Current Amount Plus Adjusted Costs		\$ 7,700,000 2,797,849 \$10,497,849
Federal Reimbursement Estimate		\$3,922,360
Cost to the General Fund  Emergency Fund  HB14  HB3  Budgeted Salaries  Less:  Federal Reimbursement  FEMA Payment  Total	* *	\$ 7,416,000 5,000,000 10,497,849 437,572 <3,922,360> <3,500,000> \$15,929,061

FIRE COSTS AS OF 3/1/95

Narrative to Accompany HB 3
Supplemental Appropriations
SENATE FINANCE AND CLAIMS

Prepared by: LFA Staff
March 13, 1995

DATE 3/21/95
BILL NO. 483

# SECRETARY OF STATE

The executive is recommending a proprietary fund supplemental appropriation of \$88,000 for the Secretary of State for costs incurred preparing and publishing for the 1994 general election. This amount is in addition to approximately \$25,000 of election expenses charged to the fiscal 1995 appropriation, including printing of the VIP and motor voter forms.

The original supplemental request of \$92,000 is being amended to reflect a \$4,000 reduction due to lower than anticipated communications costs associated with preparation for the election (amendment 2).

# COMMISSIONER OF POLITICAL PRACTICES

The executive includes two supplemental budget requests for the Commissioner of Political Practices for fiscal 1995. One supplemental, unanticipated legal expenses, was added subsequent to the publication of the Executive Budget.

1) <u>Implementation of I-118</u> - In the November 1994 election, voters passed Initiative 118. This initiative amends Montana's campaign finance laws to limit contributions to candidates for public office, forbid carryover of surplus campaign funds, restrict contributions to elected officials' leadership political committees, and include in-kind contributions within aggregate limits for contributions by political committees to state legislative candidates.

The executive originally recommended \$98,328 for this purpose. The General Government and Transportation subcommittee has recommended the addition of \$16,750 for various start-up expenses. This reduction is incorporated in an amendment to the bill (amendment 3).

2) <u>Unanticipated Legal Expenses</u> - The second amount requested of \$18,000 is for unanticipated legal expenses. Legal expenses exceeded the budgeted amount due to: a) an increase in complaints requiring investigation; and b) defense of a suit in district court.

# DEPARTMENT OF TRANSPORTATION - Amendment 4

The executive originally requested a general fund supplemental of \$586,375 (\$315,000 to reimburse the highway special revenue account for expenditures incurred in fiscal 1994 and \$271,375 for fiscal 1995) associated with the ongoing McCarty Farms, et.al. class action lawsuit against Burlington Northern Railroad (BN). The General Government and Transportation subcommittee recommended that these costs be funded from the current fiscal 1995 highways special revenue appropriations, with the account reimbursed from any settlement received. This new funding is included in an amendment to the bill.

In the lawsuit, which was filed in September of 1980, the claimants are alleging that BN charged unjust and unreasonable rates for the shipment of grain in violation of 49 U.S.C. Section 10701(a). The claimants are seeking: 1) damages for the period of time BN is alleged to have charged unlawful rates; 2) a change in the manner in which BN sets its shipping rates in the future; and 3) recovery of litigation costs. The State of Montana, as one of the claimants, has pledged to fund the costs associated with providing expert testimony in the case. Legal fees are not the responsibility of the state. If they are successful in the final determination of this case, the law firm representing the claimants is asking that legal fees and all cost incurred by the State of Montana (plus interest) be included as part of any settlement with BN.

Since becoming a party in this lawsuit in 1980, the State of Montana has expended \$1.4 million from the general fund in pursuing this case through fiscal 1994. In addition to these funds in fiscal 1995, the executive has requested a total of \$400,000 in the 1997 biennium. To date, the Interstate Commerce Commission (ICC) has determined that: 1) BN had market dominance over wheat and barley shipments; and 2) BN shipping rates have exceeded a reasonable maximum; and 3) reparations are due. Both parties are now submitting briefs before the ICC to determine the extent to which BN shipping costs were excessive. Barring any legal delays, a ruling by the ICC is expected sometime in 1995. However, any ruling by the ICC is subject to appeal to the U.S. Circuit Court. Therefore, it is not known when the case will conclude or what the outcome will be.

# DEPARTMENT OF STATE LANDS

The legislature usually does not appropriate any funds to suppress wildfires (other than personal services appropriated for other purposes but spent on fire suppression), but approves a supplemental appropriation to reimburse the department for appropriation transfers and actual and expected fire suppression costs.

The executive includes supplemental appropriations totalling \$10.5 million for the Department of State Lands to replace \$0.4 million of the department's fiscal 1995 general fund operating appropriation spent in fiscal 1994 for wildfire suppression

to pay an estimated \$10.1 million for fiscal 1995 wildfire suppression. (These figures are the amended levels included in amendment 5). Not included in the supplemental request is \$9.0 million general fund spent by the Department of State Lands and the Department of Military Affairs from emergency appropriations authorized by the Governor under section 10-3-312(a) and (b), MCA. The executive request does not include an estimate of costs for fire suppression this spring.

During the subcommittee hearing on the fire supplemental request, the Department of State Lands testimony presented updated figures as of January 3, 1995. It was stated at that time that because the state's cost of the Little Wolf fire was less than anticipated, the state may have reimburse a part of the \$3.5 million already received from **Emergency** the Federal Management Administration. The executive request does not address the possibility of this additional cost.

Table 1 General Fund Suppler Wildfire Suppressio	
Biennium	Millions
1985 1987 1989 1991 1993 1995*	\$2.9 3.7 12.6 3.0 7.9 15.5
* Executive Budget request in HB 1 not include \$9.0 million of emergence authorized by the Governor and spessuppression.	y appropriations

State and federal agencies assist each other in their wildfire suppression efforts and then bill each other for the costs. Any reimbursements from federal agencies and private/corporate entities (responsible for starting a fire) are deposited in the general fund. The executive estimates that \$3.9 million of general fund spent by the state to assist federal agencies will be reimbursed to the general fund. Since fiscal 1989, the legislature has appropriated some of these reimbursements to the department to fund additional administrative assistance when administrative personnel are doing work associated with fire suppression. An issue with this practice is raised in the Forestry Division "Executive Present Law" narrative in the Department of State Lands in the LFA Budget Analysis, Volume II.

The amount of wildfire suppression supplemental budget authority approved by the legislature has varied widely, as Table 1 shows. If the fiscal 1995 supplemental requests are approved, the total fire suppression costs for the 1995 biennium (including emergency appropriation expenditures) will be \$24.5 million, the highest ever.

# DEPARTMENT OF JUSTICE

<u>Litigation</u> - HB 3 includes \$400,000 general fund in fiscal 1995 for litigation costs of two water rights cases, the Crow coal and Blackfeet cases. The agency is requesting this amount to supplement a HB 2 appropriation of \$400,000 for litigation costs. The general appropriations act from the last session contained language that the "legislature recognizes that costs associated with litigation in which the legal services division must provide representation to the state of Montana may exceed the appropriation provided in item 1c. In that event, the department will request a supplemental appropriation from the 1995 legislature to adequately represent the state."

Per Diem - HB 3 includes \$436,000 in fiscal 1995 from the highways special revenue account for prisoner per diem paid to local detention centers for prisoners arrested by the Highway Patrol. Legislation passed in 1991 replaced the \$20 per day boarding costs with "reasonable costs". Costs per day range from \$20 to \$40. The department states harsher jail sentences, individuals serving more of their sentences, more prisoners, and increases in daily rates account for the increasing costs. The agency made an appropriation transfer of \$174,000 from the highway patrol's fiscal 1995 appropriation to fiscal 1994 for the increased costs.

#### OFFICE OF PUBLIC INSTRUCTION

HB 3 includes a \$1,720,000 general fund supplemental to allow the state to reimburse school districts for transportation costs in accordance with the payment schedules set forth in 20-10-140, MCA; 20-10-142, MCA; and 20-10-145,MCA. In June, the Office of Budget and Program Planning approved a transfer of \$800,000 from the fiscal 1995 general fund appropriation for transportation into fiscal 1994 to cover the increased transportation payments to the school districts in fiscal 1994. The supplemental includes \$800,000 to replace the amount transferred and an additional \$920,000 for fiscal 1995. By statute the state must reimburse school districts for the transportation costs incurred by a school district in transporting eligible students to and from school.

According to the Office of Public Instruction, the increase in school transportation payments is due to a combination of: 1) additional bus routes; 2) growing number of students riding school buses; and 3) a decline in school district transportation cash reserves available to reduce the state's share.

In recent history there have been two general fund supplementals approved by the legislature for school transportation: 1) the 1987 legislature approved a supplemental of \$281,586 for fiscal 1987; and 2) the 1989 legislature approved a supplemental of \$215,000 for fiscal 1989.

EXHIBIT 2 DATE 3-21-95 ? L HB 3

DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES - Amendment 6

Swan River Boot Camp - The department requests \$103,465 of additional general fund appropriation authority in fiscal 1995 to increase security at Swan River Correctional Training Center (SRCTC). This request includes: 1) \$63,832 for 5.0 FTE correctional officers and related operating expenses and equipment; 2) \$7,398 for a contract with Lake County Sheriff's Office to have an officer based at SRCTC; 3) \$11,700 for overtime, benefits, and travel for MSP staff that are currently working at SRCTC in the place of trustees that have been removed from the facility; and 4) \$4,000 for jail costs for the removed trustees. This request includes \$7,000 for the following equipment: 1) key control; 2) a base station radio unit; and 3) 4 mobile radios. The department also requests \$4,535 to connect to the criminal justice information network (CJIN) and \$5,000 to implement a dress policy.

Personal services and operating expenses are pro-rated for the remainder of fiscal 1995 - March through June. Funding for the contract with the Lake County Sheriff's Office is included as of the beginning of February, 1995.

The department requests this funding to increase security at SRCTC in response to recent events at the facility. The legislature should note however, that three of the requested items: 1) mobile radios (for existing staff); 2) CJIN connection; and 3) dress policy, are not directly related to the change in staffing, and could have been requested during the regular budget process and appropriately evaluated during subcommittee.

The department submitted a new proposal to the Institutions and Public Safety subcommittee to fund ongoing costs and equipment replacement for the items requested in this supplemental proposal. The department requested \$234,284 in fiscal 1996 and \$235,098 in fiscal 1997. The subcommittee did not approve this new proposal.

MSH Reception Overflow - The legislature authorized in HB 2 an executive proposal to provide 31.0 FTE and funding to convert the old forensic building at the Montana State Hospital (MSH) campus into an 80 bed prison facility. The proposal originally requested \$1,024,576 in each year of the 1997 biennium.

Due to current overcrowding at MSP, the department requests that they be given authority to begin conversion of the building and recruitment of staff immediately, so that occupancy can occur as soon as possible. To accommodate the immediate start date, the executive reduced the amount requested in HB 2 for the 1997 biennium by \$300,000 and requested this amount in the supplemental bill.

The legislature authorized \$724,576 in fiscal 1996 and \$1,024,576 in fiscal 1997 in HB 2 to staff and operate the 80 bed facility on the MSH campus.

ADJUSTMENT TO PREVIOUS BIENNIUM ENERGY SAVINGS TRANSFER - UNIVERSITY OF MONTANA - Missoula and Montana State University-Billings -- Amendment 7

The 1993 biennium appropriation to the University of Montana in HB 2 includes language requiring the transfer of \$260,865 to the energy conservation program account in the Department of Natural Resources and Conservation (DNRC). The transfer was required due to anticipated savings from energy improvements made as part of the State Building Energy Conservation Program, and would be used to retire general obligation bonds sold to fund the improvements. In an amendment to the introduced HB 3, the executive proposes that the required transfer amount be reduced to \$67,700, as delays in implementation of the energy improvements are anticipated to result in lower than anticipated savings in fiscal 1995. In a similar amendment, the executive proposes that the required energy transfer from MSU-Billings be eliminated due to delays in the project.

# SOCIAL AND REHABILITATION SERVICES (Amendment)

A projected savings in AFDC and Emergency AFDC benefits was reappropriated for child support enforcement and child care benefits in SRS. General fund totals \$510,000 and federal funds total \$1,222,916. This increase is offset by a reduction in the 1995 biennium appropriation.

# FORESTRY AND CONSERVATION EXPERIMENT STATION (Amendment)

General fund of \$48,977 was added for additional costs to the experiment station for work related to the forest land taxation project. Funds are collections from the flat forest tax in excess of the prior appropriation.

# MONTANA UNIVERSITY SYSTEM (Amendment)

General fund of \$849,978 and millage of \$126,433 was added due to differences between actual millage collections and the 1995 biennium appropriations. Additional millage is appropriated to the colleges of technology due to higher collections of the 1.5 mill county levy. General fund is added to the six units to replace 6 mill levy not collected. Language in the 1995 biennium HB 2 allowed the university system to seek a supplemental if appropriations were higher than actual collections.

SENATE FINANCE AND CLAIMS

EXHIBIT NO.

PRESCOTT HOUSE AND CAMPUS DRIVELL NO.

The University of Montana, Missoula

#### House Bill 603

Private donations and student revenue bond funds (interest earnings on construction funds) will fully fund the restoration of the Prescott House, the realignment of Campus Drive and the development of additional parking on the east side of the campus. The work will be done at cost and with in-kind contributions, thereby significantly benefiting The University of Montana, Missoula. The contractor currently beginning work on the expansion of the Washington/Grizzly Stadium will be the contractor, provided the exemption from Title 18, Chapters 2 and 8 is authorized in HB 603. The Associated Students of The University of Montana, Missoula have unanimously endorsed the project.

The restoration and preservation of the Prescott House is the primary purpose of the project. The Prescott House, following its restoration, will provide general purpose meeting rooms and office space for the Center for Curriculum Development and Technology, a privately funded unit of the School of Education. In addition, the project includes the realignment of Campus Drive, thereby resolving a major safety problem and a barrier to students with disabilities. The realignment of Campus Drive will also permit the development of an additional 120 parking place for students, faculty, staff, and the general public. The additional parking spaces will also expand the availability of handicapped parking for persons with disabilities.

The project will be funded exclusively by private donations and interest earnings on the construction funds in the 1993 and 1995 student revenue bonds. No State funds and no Student Buildings Fees will be expended for the project. Up to \$1,000,000 will be available from interest earnings and the balance will be provided by private donations.

The restoration of the Prescott House and the enhancement of the related grounds are estimated to cost \$700,000, and private funds will be used exclusively for the restoration. The interest earnings on the construction funds will be expended exclusively on the development of parking, and, to the extent the realignment of Campus Drive provides additional parking, on the Campus Drive portion of the project. The development of additional parking and renovation of parking lots impacted by the project constitutes \$590,000\* of the total project, while the realignment of Campus Drive has an estimated project cost of \$710,000.

The realignment of Campus Drive provides the opportunity for the development of much needed parking on the east side of campus. Without the realignment, a net loss of 28 parking spaces would occur even though an expenditure of \$300,000 would be required to compensate for the removal of the gravel parking lot on the grounds of the Prescott House and the renovation of existing parking impacted by the project.

\*Note: The parking portion of the project includes the development of 120 new parking spaces and the renovation of 449 spaces, or a total of 569 spaces at a cost of \$1,037 per space.

DATE March 2	8, 1995	·		
SENATE COMMITTEE ON	Linar	ce and Cox	aims	
BILLS BEING HEARD TO				Zook
AB 189 Bep. 6	Bergsagel	HB512	Res. De B	mucken
24B 603 Rep. 2	COK A	D FHI	epstra	Aly-
< ■ >'	PLEASE	PRINT	< <b>i</b> >	8

Check One

Name	Representing	Bill No.	Support	Oppose
BOB KUCH EMBROD	D5L	3	V	
		18	V	
RICK GUSFING		403	~	
Star WHERE		603	V	
CORAD ) DAWS		603	V	
Russ Rolla		603	~	
JEFF BAKER	OCILE	403		
Pat Grahan	FWP	512	<u></u>	

# VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY